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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/223,875 | 12/31/1998 | RICHARD C. FENWICK JR. | ONCO-003 | 4405 |

7590

10/07/2003

Paul A Ragusa
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112

EXAMINER

BROWN, RUEBEN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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2611

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DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/223,875

Applicant(s)

FENWICK ET AL.

Examiner

Reuben M. Brown

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 7/1/2003 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/223,875 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

2. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph. Considering amended claim 1, the specification, while being enabling for “allocating a particular ACD to present a menu to a user”, as disclosed in the specification page 21, lines 19-21, the disclosure does not reasonably provide enablement for “assigning an assignable ACD to the particular user only”. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with this claim.

Allocating a particular resource to execute a particular task, such as a server, which is capable of simultaneously transmitting data to a plurality of users does not require that the instant server is only communicating with the one particular user. Thus the subject matter recited in amended claim 1, is more limiting than the disclosure found in the specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie, (U.S. Pat # 5,850,218), in view of Pal, (U.S. Pat # 6,301,616)

Considering claims 1 & 15, the claimed method of presenting an audiovisual signal to user's display monitor comprising receiving a command from the user, responding to the command by assigning an assignable computing device, (ACD) is broad enough to read on the operation LaJoie, which teaches that a user access a server system over the Internet and requests/receives a variety of services, (Abstract; col. 10, lines 21-35; col. 14, lines 10-25; Fig. 1).

As for the amended claimed feature of responding to a command from a user to assign a assignable computing device (ACD) to a particular user only, LaJoie does not explicitly teach

Art Unit: 2611

such a feature. Nevertheless, the claimed recitation reads on the disclosure of Pal, which teaches that a server allocates a resource to a single client for a predetermined time, upon request from the client; see Abstract; col. 2, lines 26-45 & col. 5, lines 1-10.

Thus LaJoie & Pal, (Abstract; Fig. 1; col. 10, lines 21-35; col. 14, lines 10-25), which discloses that a client accesses a server through a computing device, necessarily establish a communications link between the monitor and a server, (ACD). The claimed menu is met by the EPG, Fig. 6-Fig. 10 of LaJoie. The claimed steps of selecting one of a video program and routing the selected video program to the user's display are met by LaJoie, (col. 7, lines 14-65; Fig. 13; Fig. 25).

Considering claims 2-3 & 17-18, the claimed GUI buttons are met by the EPG display,

Considering claims 4 & 19, LaJoie teaches demodulating RF signals, (col. 14, lines 11-15).

Considering claims 5 & 20, see LaJoie, col. 14, lines 45-55, RF modulator 61.

Considering claims 6-8 & 21-23, see Fig. 25 & Fig. 28; col. 22, lines 35-45; col. 27, lines 35-60 of LaJoie.

Considering claims 9 & 24, see col. 17, lines 10-25 of LaJoie.

Considering claims 10-12 & 25-26, see col. 10, lines 44-54, LaJoie.

Considering claims 13 & 27, the claimed step reads on the user being connected to whichever service provider that provides a selected video program, LaJoie, (Fig. 5; col. 16, lines 10-30). LaJoie discloses that the user is enabled to access services from the WWW, specific VOD providers, home shopping networks, still image database services, etc. When the user goes from one service provider to another, inherently the system must at some point break the connection in order to establish connection with other service providers.

Considering claim 14, the claimed feature reads on the lists of channels displayed to the user, as disclosed in LaJoie, (Fig. 16; Fig. 17).

Considering claim 16, the claimed apparatus for presenting an audiovisual signal to a user's display monitor, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise analyzed. The claim RCS reads on the set top terminal, disclosed in LaJoie, (Fig. 3; col. 14, lines 58-65 & col. 15, lines 1-10).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Helland Teaches allocation a particular application to a single user.

Art Unit: 2611

Any response to this action should be mailed to:

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Or:

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"PROPOSED" or "DRAFT")

*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).*


Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.

The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the
organization where this application or proceeding is assigned is (703) 872-9306 for regular
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600